

March 9, 1995

Ms. Nancy Ovuka Federal Trade Commission FAX # 202/326-2624 The second of th

RE: ADVISORY OPINION REGARDING PRE-MERGER NOTIFICATION

Per our telephone conversation of earlier this afternoon, would appreciate a determination as to whether the following acquisition would be subject to pre-merger notification under Hart-Scott-Rodino.

Description of Acquisition:

Acquiring Person:

Acquired Person:

Company "A"

partnership interest of Company "B" held by Company "A" and 100% of the limited partnership interest of Company "B" held by Company "C" (which is not affiliated with Company "A") (the "Acquisition"). The value of the general and limited partnership interest of Company "B" to be acquired is approximately \$3,500,000, plus a potential post-closing payment adjustment as described in the Letter of Intent. will be required to pay an additional \$500,000 for the partnership interests of Company "C" and/or Company "A" in the event that certain guarantees are not replaced prior to closing.

We are certain that the state and Company "A" satisfy the "size of the person" test. However, we are uncertain as to the "size of the transaction" test. Is this considered a voting securities acquisition or an asset acquisition? Our understanding is that an acquisition of 100% of partnership interests would categorize this as an asset acquisition. If this is true, we feel that the \$15 million threshold would not be met.

Your verbal opinion on this matter would be appreciated. Please call me as soon as possible.

Value determination

must be made of all the

partnership's assets, not the

Value of the interests